

**PIMA HEALTH SYSTEM
STANDARD AND PROCEDURE**

SUBJECT: Compliance with Privacy of Member’s Health Information	Administration
APPLICABLE TO: Acute Care, ALTCS Institutional, ALTCS HCBS	Compliance
EFFECTIVE DATE: 4/14/03 APPROVED BY: Mary Kaehler by signature	AD-VIII- 0006
SUPERSEDES: None	

I. STATEMENT OF PURPOSE:

Pima Health System (PHS), as a covered entity that provides and pays the cost of medical care for Arizona Health Care Cost Containment System (AHCCCS) and Arizona Long Term Care System (ALTCS) Members, is committed to protecting and enhancing the rights of members by providing them access to their health information and controlling the inappropriate use of that information. The purpose of this Standard and Procedure is to establish the standards used to protect the privacy of individually identifiable health information and procedures used to authorize the use and disclosure of this information in accordance with the Department of Health and Human Services, 45 CFR 160 and 164 for Standards for Privacy of Individually Identifiable Health Information (also referred to as the Privacy Rule)¹ and applicable Arizona State laws and regulations.

II. DEFINITIONS:

Business Associate is a person or entity that performs certain functions or activities that involve the use or disclosure of protected health information it receives or creates on behalf of, or provides services to, a covered entity. **Business associate functions and activities** include: claims processing or administration, data analysis, processing or administration, utilization review, quality assurance, billing, benefit management, practice management, and repricing. **Business associate services** are legal, actuarial, accounting, consulting, data aggregation, management, administrative, accreditation, and financial. (45CFR § 160.103)

Covered Entity means a health plan, a health care clearinghouse, or a health care provider who transmits any health information in electronic form in connection with a transaction covered by Part 160 of the Department of Health and Human Services (HHS) Privacy Rule. (45CFR § 160.103)

Disclosure means the release, transfer, provision of access to, or divulging in any other manner of information outside the entity holding the information. (45CFR § 164.501)

¹ Confidentiality and release of information is subject to Arizona Revised Statute, Arizona Administrative Code, and Pima County Policies. The Federal Privacy Rule does not replace other Federal, State, or local laws granting individuals even greater privacy protection, or greater access to the individual’s medical information.

Health Care means care, services, or supplies related to the health of an individual including, but is not limited to: preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care and counseling, services, assessment, or procedures with respect to the physical or mental condition, or functional status, of an individual or that affects the structure or function of the body; and sale or dispensing of a drug, device, equipment, or other item in accordance with a prescription. (45CFR § 160.103)

Health Information means any information, whether oral or recorded in any form or medium that is created or received by a health care provider, health plan, public health authority, employer, life insurer, school or university, or health care clearinghouse; and relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual. (45CFR § 160.103)

Health Care Operations are certain administrative, financial, legal, and quality improvement activities of a covered entity that are necessary to run its business and to support the core functions of treatment and payment. Activities include:

- Conducting quality assessment and improvement activities, including outcomes evaluations and development of clinical guidelines;
- Population-based activities relating to improving health or reducing health care costs, protocol development, case management and care coordination;
- Contacting of health care providers and patients with information about treatment alternatives and related functions that do not include treatment;
- Reviewing the competence or qualifications of health care professionals;
- Evaluating practitioner and provider performance,
- Conducting training programs in which students, trainees or practitioners in health care practice or improve their skills as health care providers;
- Training of non-health care professionals;
- Accreditation, certification, licensing or credentialing activities;
- Underwriting and other activities relating to the creation, renewal, or replacement of a contract of health insurance or health benefits, and ceding, securing, or placing a contract for reinsurance of risk relating to health care claims;
- Conducting or arranging for medical review, legal and auditing functions, including fraud and abuse detection, and compliance programs;
- Business planning and development, such as conducting cost-management and planning analyses related to managing and operating the business;
- Formulary development and administration;
- Development or improvement of methods of payment or coverage policies;
- Business management and general administrative activities, including those related to implementing and complying with the Privacy Rule and other Administrative Simplification Rules;
- Customer service;
- Resolution of internal grievances;
- Sale or transfer of assets;
- Creating de-identified health information or a limited data set; and

- Fundraising. (45CFR § 164.501)

Individually Identifiable Health Information is information that is a subset of health information, including demographic information collected from an individual; is created or received by a health care provider, health plan, employer, or health care clearinghouse; and relates to the past, present, or future physical or mental health or condition of the individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and that identifies the individual; or with respect to which there is a reasonable basis to believe the information can be used to identify the individual. (45CFR § 160.103)

Limited Data Set is protected health information that excludes identifiers of the individual or of relatives, employers, or household members of the individual. (45CFR § 164.514(e))

Payment means the activities undertaken by a health plan to obtain premium or to determine or fulfill its responsibility for coverage and provision of benefits under the health plan; or a health care provider or health plan to obtain or provide reimbursement for the provision of health care; and the activities of this definition relating to the individual to whom health care is provided and include, but are not limited to:

- Determinations of eligibility or coverage;
- Risk adjustments;
- Billing, claims management, collection activities, obtaining payment under a contract for reinsurance, and related health care data processing;
- Review of health care services with respect to medical necessity, coverage under the health plan, appropriateness of care, or justification of charges;
- Utilization review activities, including precertification and preauthorization of services, concurrent and retrospective review of services; and
- Disclosure to consumer reporting agencies relating to collection of premiums or reimbursement.² (45CFR § 164.501)

Protected Health Information (PHI) is individually identifiable health information that is or has been electronically maintained or electronically transmitted by a covered entity, as well as such information when it takes other form. (45CFR § 164.501)³

Required by Law means a mandate contained in law that compels an entity to make a use or disclosure of protected health information and that is enforceable in a court of law. (45CFR § 164.501)

Treatment means the provision, coordination, or management of health care and related services by one or more health care providers, including the coordination or management of health care by a health care provider with a third party, consultation between health

² Information that may be disclosed is limited to: name and address, date of birth, social security number, payment history, account number, and name and address of the health care provider and/or health plan.

³ Excludes education and employment records

care providers relating to a patient for health care from one health care provider to another. (45CFR § 164.501)

Use means, with respect to individually identifiable health information, the sharing, employment, application, utilization, examination, or analysis of such information within an entity that maintains such information. (45CFR § 164.501)

III. STANDARDS:

A. PRIVACY NOTICE:

1. Members have a right to adequate notice explaining how PHS may use and disclose protected health information about the member, as well as the member's rights and the PHS obligation in respect to that information.
2. If a change in law materially affects the content of the Privacy Notice, PHS makes appropriate revisions to the Privacy Notice and the appropriate standard(s) and procedure(s) affected by the change in the law. A change to a PHS standard and procedure, as a result of a material change in the law affecting the Privacy Notice, is not implemented prior to the effective date of the revised Privacy Notice.

B. TRAINING:

1. Training is provided to PHS associates on PHS standards and procedures with respect to confidentiality of health information and in accordance with or relevant to the associate's job functions.
2. Contracted providers are required to provide training to their employees and volunteers who have access to member's health information on the security, use and disclosure of the information.
3. At time of employment with PHS, associates are required to review PHS Standards and Procedures: Compliance with Privacy of Individuals AD VIII 0006; review PHS Standards and Procedures: Uses and Disclosures of Member's Health Information AD VIII 0010 and sign an agreement to comply with standard and procedure in the performance of their duties.⁴

C. USES AND DISCLOSURES:

1. PHS uses protected health information, with certain limits and protections, in the scope of treatment, payment and health care operations in accordance with applicable laws and regulations that protect the confidentiality of member's personal information including individually identifiable medical records information.

⁴ As referenced in PHS Standard and Procedure: AD I-0013 New Employee Orientation.

2. Uses, access by PHS Members and disclosures of protected health information is in accordance to PHS Standard and Procedure: Uses and Disclosures of Member's Health Information AD VIII 0010.
 3. PHS contracted providers are required to comply with all applicable federal, state, and local laws on security, use and disclosure of confidential member information in accordance with the Pima County contract.
- D. MINIMUM NECESSARY:** PHS limits unnecessary or inappropriate access in the use or disclosure of protected health information. Member's protected health information is limited to the extent necessary to satisfy a particular purpose or to carry out a function.
- E. AMENDMENTS** to records created by PHS may be requested by the member in accordance with PHS Standard and Procedure: Member's Request to Amend Health Information Records AD VIII-0009.
- F. ACCOUNTING OF DISCLOSURES:** A member has the right to receive an accounting, unless excepted or limited, of disclosures of the member's protected health information made by PHS in accordance with PHS Standard and Procedure: Accounting of Disclosures of Member's Health Information AD-VIII-0007 and its business associates in accordance with PHS Standard and Procedure: Business Associate Contracts PS-I-0031.
- G. CONFIDENTIAL COMMUNICATION:** PHS makes accommodations for reasonable requests by members to receive communication of PHI by alternative means or at alternative locations.
- H. DOCUMENTATION⁵:** PHS documents and keeps a record (either written or electronically) for a period of six (6) years from the date of its creation, or the date when it last was in effect, whichever is later of (The division responsible to document and keep the record is in parenthesis):
1. Any signed authorizations (PHS Office of Corporate Compliance or Long Term Care (LTC) Casemanagement Division).
 2. Uses and disclosures made by PHS for which written authorization is required (Office of Corporate Compliance).
 3. The Privacy Notice and verification of distribution to members (Member Services Division and LTC Casemanagement Division).
 4. Any written agreement to a restriction of member information (PHS Office of Corporate Compliance).

⁵ Additional requirements are provided in PHS Standards and Procedures: Uses and Disclosure of Member Health Information, AD-VIII-0010 and Accounting of Disclosure of Member Health Information, AD-VIII-0007.

5. A member's written request for an accounting (PHS Office of Corporate Compliance).
 6. Accounting of disclosures and type of disclosure (PHS Office of Corporate Compliance).
 7. Complaints of privacy violations received and their disposition (PHS Office of Corporate Compliance).
 8. Sanctions that are applied, if any to members of the workforce who fail to comply with privacy policies and procedures (PHS Human Resources Division).
 9. PHS Standards and Procedures (maintained in PHS Network drive).
 10. Any written communication, activity, action, or designation required to be documented related to the Privacy Rule (PHS Office of Corporate Compliance or Member Services Division).
 11. The designated record sets that are subject to access by individuals (Information System).
 12. Titles of persons or offices responsible for receiving and processing requests for access to member information (PHS Human Services Division).
 13. Titles of the persons or offices responsible for receiving or processing requests for an accounting by individuals (PHS Human Services Division).
 14. Requests for reasonable accommodations for confidential communication by the member (Member Services Division, LTC Casemangement Division).
- I. BUSINESS ASSOCIATES:** PHS discloses protected health information to its business associates only with satisfactory assurance that the business associate will: use the information solely for the purpose for which it is engaged by PHS, safeguard the information from misuse; and help PHS comply with PHS's duties under the Privacy Rule and in accordance with PHS Standard and Procedure: Business Associate Contract PS-I-0031.
- J. RESEARCH:** In the course of conducting AHCCCSA approved studies, PHS may obtain, create, use, and/or disclose individually identifiable health information. The use and disclosure of protected health information for studies is in compliance with Arizona Revised Statutes and AHCCCSA.
- K. MARKETING:** PHS does not engage in marketing by selling protected health information to a business associate or any other third party's own purpose. Any other

communication that meets the definition of marketing is done only with the member's authorization as described in 45 CFR § 164.508⁶.

L. COMPLAINTS: Complaints are investigated, resolved and documented in accordance with PHS Standard and Procedure: Complaint Resolution Process Related to Uses and Disclosures of Health Information AD-VIII-0008.

M. MITIGATION AND SANCTIONS:

1. To protect the privacy of protected health information, PHS takes administrative, technical and physical steps to safeguard protected health information.⁷ from accidental or intentional use or disclosure and to protect against inadvertent disclosures. PHS takes steps to mitigate any harmful effects discovered, of a use or disclosure of protected health information in violation of PHS Standards and Procedures by PHS or its business associates.
2. Reports of unauthorized use or disclosures of member's health information are made to the PHS Privacy Officer in the Office of Corporate Compliance at the time of the unauthorized use or disclosure, or as soon as the unauthorized use or disclosure is known.
3. Sanctions against PHS associates who fail to comply with privacy rules are imposed in accordance with Pima County Personnel Policies appropriate to the nature of the violation, whether the violation was intentional or unintentional, and whether the violation indicated a pattern or practice of improper use or disclosure of protected health information.
4. Sanctions of members of the workforce or business associates for disclosures are exempted under certain conditions in accordance with 45 CFR§ 164.502(j) and 45 CFR§ 164.530(g)(2).⁸

N. PERSONNEL DESIGNATIONS:

1. The PHS Compliance Officer is the designated individual acting as the PHS privacy official responsible for the development and implementation of the standards and procedures related to the Privacy Rule.
2. The PHS Compliance Coordinator receives, verifies, and processes:

⁶ In addition to R9-22-504, R9-31-504 and R9-28-507(K) Marketing; Prohibition against Inducements; Misrepresentations; Discrimination; Sanctions and AHCCCS Office of Managed Care Policy and Procedure 401 Marketing Policy.

⁷ As referenced in: PHS Standards and Procedures: Use of PHS E Mail System and Internet Access AD -I-0011; PHS Standards and Procedures: Administrative Procedures to Protect Client Health Information AD -I-0015; PHS Standards and Procedures: Process System Security IS II-0001; PHS Standards and Procedures: Network Security IS-II-0002; PHS Standards and Procedures: Data and Intellectual Property Security IS II-0003.

⁸ 45 CFR§ 164.502(j) Standard exempts disclosures by whistleblowers and workforce member crime victims. 45 CFR§ 164.530(g)(2) exempts individuals or others who file a complaint with the Secretary of HHS, (sic) take part in an investigation, or oppose any act that is unlawful.

- a) the release of member's written records containing health information to individuals or entities other than for treatment, payment or health care operations upon receipt of an authorization;
 - b) requests by a member to access the health record;
 - c) requests by a member to amend the record;
 - d) requests by a member for an accounting of disclosures of the member's health information records;
 - e) complaints related to privacy; and
 - f) requests for information related to the PHS Privacy Policies.
3. The PHS Office of Corporate Compliance is the office responsible for:
- a) maintaining compliance in accordance with the PHS Standard and Procedure: Maintenance of PHS Standards and Procedures AD VIII-0005;
 - b) revision of the PHS Privacy Notice when there is a material change in the law and makes the Privacy Notice available to all members when the change becomes effective; and
 - c) training PHS associate on issues of compliance with the Privacy Rules.

IV. PROCEDURES:

A. PRIVACY NOTICE:

1. The PHS Privacy Notice, in English and translated into Spanish, is provided to Member Services Division associate by the PHS Office of Corporate Compliance. Member Services associate sends the Privacy Notice with the Acute Care Member Handbook as part of the "Member Enrollment Packet" to each member upon enrollment with Pima Health System in accordance with PHS Standard and Procedure: Member Handbook MS I-0004.
2. Member Services Division maintains a record in the member database file, indicating, the date the Privacy Notice was mailed to the member as verification of distribution to the member. Any returned packets are logged and resent after verification of the corrected address. The data base is updated to indicate the date the Privacy Notice was resent.
3. The PHS Privacy Notice, in English and translated into Spanish, is provided to LTC Case Management Division associate by the Office of Corporate Compliance. Case Management associate includes the Privacy Notice in the "intake packet" given to the member at time of intake into the LTC Program in accordance with PHS Standard and Procedure : Intake Procedure for New ALTCS Members CM GEN III 0001.
4. The LTC Case Manager notes on the "Intake Checklist" form the member's receipt of the Privacy Notice. The Case Manager obtains the member's or member's representative's signature to verify receipt of the Privacy Notice on the Member Rights form.

5. The record of mailing or signature of receipt of the Privacy Notice by the member is retained for a period of six (6) years from the date of its creation or the date when it last was in effect, whichever is later. The record is maintained in the Member Administrator by Member Services Division for Acute Care Members. The record is maintained in the LTC members case file by the LTC Casemanager.
6. A member who has agreed to receive an electronic version of the Privacy Notice, or who has an electronic version, may request a paper copy at any time by calling the Compliance Coordinator and requesting the Privacy Notice. The Compliance Coordinator mails the Privacy Notice to the member at the location requested by the member and documents it in the Member Administrator data base.
7. The Compliance Office will make any material revision to the uses or disclosures, the member's rights, PHS legal duties, or other privacy practices as stated in the Privacy Notice and distributes the revised Privacy Notice to all active enrolled Plan and LTC members within 60 days of the material revision. The revision date will be marked on the first page of the Privacy Notice.
8. Acute Care Members enrolled with PHS will be notified through the Member Newsletter, published quarterly, of the availability of the Privacy Notice and how to obtain a copy of the Privacy Notice. The Privacy Notice in English and Spanish is available on the internet by accessing: www.co.pima.az.us/hipaa/
9. Long Term Care Members will be notified of the availability of the Notice by the Long Term Care Casemanager during a review visit, at least annually. The Long Term Care Casemanager will provide the Notice to the member when the member requests it.

B. TRAINING:

1. The Compliance Coordinator coordinates and provides training and education programs on compliance with PHS Standards and Procedures, the Code of Conduct, Confidentiality, and Privacy Rules to all new associates and annually to all associates in accordance with PHS Standard and Procedure: Corporate Compliance AD-VIII-0004.
2. Associates may request additional training programs or refresher courses by calling the Compliance Coordinator.
3. The Compliance Coordinator logs all training and education programs activities and associate's attendance dates into a data base maintained by the Compliance Coordinator to monitor compliance with the associate training requirements. The Compliance Coordinator notifies the supervisor, in writing, of any associate member's non-compliance with the training requirement.
4. The associate's Performance Appraisal is scored appropriate to the associates compliance with the training requirement to reflect the associates demonstrated

performance to support, adhere to the Corporate Compliance program by attending all required training, following the PHS Code of Conduct, and following standards and procedures in the performance of their assigned duties and responsibilities.

C. MINIMUM NECESSARY:

1. Division Managers will identify and limit or condition member health information access to those staff within their division whose job duties require access to member information in the course of their job functions.
2. Division Managers will enforce safeguards to:
 - a) secure and protect case files and other documents containing member health information from inappropriate use and disclosure;
 - b) limit access to only those associates who have a need to know;
 - c) limit rights to access to the minimum necessary, except for:
 - i. disclosures to or requests by a health care provider for treatment purposes;
 - ii. disclosures to the individual who is the subject of the information;
 - iii. uses or disclosures made pursuant to an authorization requested by the individual to the extent requested;
 - iv. uses or disclosures required for compliance with the standardized HIPAA transactions;
 - v. disclosures to the Department of Health and Human Services when information is required under the Privacy Rule for enforcement purposes; and
 - vi. uses or disclosures as required by law.
3. Member's health information is provided only to the extent requested for the purpose intended. If an entire record is requested, the person who discloses the information should determine the specific justification to disclose the entire record before the disclosure is made.
4. The minimum necessary is not imposed in any of the following circumstances:
 - a) disclosures to or a request by a health care provider for treatment;
 - b) disclosure to an individual who is the subject of the information, or the individual's representative;
 - c) use or disclosure pursuant to an authorization as indicated on the authorization;
 - d) disclosure to HHS for complaint investigations, compliance review or enforcement;
 - e) disclosures to the Social Security Administration as authorized on form SSA 827;
 - f) use or disclosure that is required by law; or
 - g) use or disclosure required for compliance with the HIPAA Transaction Rule or other HIPAA Administrative Simplification Rules.

5. PHS associates may rely on a requested disclosure as being the minimum necessary when:
 - a) making a disclosure to public officials, if the information requested is the minimum for the stated purpose;
 - b) the information is requested by another covered entity;
 - c) the information is requested by a professional who is a member of the workforce;
 - d) the information is requested by a PHS business associate for the purpose of providing professional services to PHS;
 - e) the information is for research purposes (provided documentation complying with the applicable requirements have been provided by the person requesting the information).

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